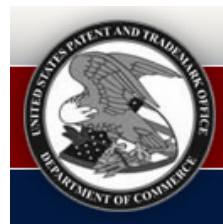




INTERNATIONAL  
**TRADE**  
ADMINISTRATION

## China IPR News for U.S. Industry April 25, 2008



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### COPYRIGHTS

1. Chinese Company Ordered to Pay RMB Two Million for Using Pirated Software: On April 16, the Qingdao Intermediate People's Court ruled that a Qingdao company, accused of installing and using pirated software, should compensate RMB two million to three plaintiffs. In December 2005, the Qingdao Copyright Administration examined the company's computers and found them to be installed with pirated software of Pro/E, Windows 2000, Office 2002, Office 2003, AutoCAD 2002, AutoCAD 2004, and AutoCAD 2005. Parametric Technology Corporation, Microsoft, and Autodesk, Inc. owned the copyrights of the software in question, respectively. When the company could not provide user authorization for any of the software, the three copyright owners instituted a civil suit against it. According to the Berne Convention and the Copyright Law of China, the court held that the

copyrights of the three foreign rights holders must be protected in China. Accordingly, the court ordered the company to stop using the pirated software, and compensate RMB two million to the plaintiffs. (<http://www.chinantd.com/en/en-newsshow.asp?id=770>)

### ENFORCEMENT

2. Shenzhen Regulations Strengthen IPR Protection: As reported in the April 11 edition of "IPR Notes," on April 1, the Standing Committee of the Shenzhen People's Congress reviewed and adopted "Some [sic] Regulations of Shenzhen Special Economic Zone on Strengthening the Protection of Intellectual Property Rights," effective July 1, 2008. These are the first local regulations ("difangxing fagui" – 地方性法规) concerning comprehensive IPR protection in China. The Regulations' thirty articles cover all IPR-related fields, and address new concepts in actual operations of IPR protection, including detailed provisions on the collection, consolidation, and utilization of evidence, and the sharing of the burden of proof, as well as detailed provisions on site inspection, investigation orders, and notarial preservation. The Regulations cover the protection of technical secrets, including the need to comprehensively consider research-and-development cost, and other factors in the calculation of losses. One explicit provision states the following: If the loss cannot be calculated otherwise, the amount of the illegal business operations of an infringer shall be taken as compensation for the loss to the right holder of a technical secret. This has prevented infringers from shirking their legal responsibilities by pleading that they have no profits. According to relevant sources, the Regulations have increased the cost and liability of infringement to lawbreakers. Shenzhen authorities confirm the need to establish an IPR supervisory structure supported through reliable record-keeping system, to force infringers to pay a higher social cost, helping Shenzhen to further increase IPR protection for rights holders. (Chinese Source: China IP News, April 4, 2008, Page 1.)

3. Faster, Centralized Customs Declaration Form Denied to IPR-Violating Goods: The General Administration of Customs (GAC) will implement its "Administration Measures of the People's Republic of China for Centralized Declaration of Import/Export Goods at Customs," to standardize review procedures at highway ports, where timely clearance is essential. Normally, an enterprise uses a "Manifest Declaration," and Customs inspects and clears the goods of each shipment. Over time, however, enterprises may enter all goods imported or exported over a prescribed period of time into a centralized Customs declaration form. During the past few years, some Customs authorities have implemented a centralized, blanket-style declaration for specific goods, including value-added processed trade goods, fresh and live commodities, books, newspapers and magazines. These authorities concluded that such a declaration enhanced clearance efficiency, while providing convenience for certain types of imports and exports. However, this centralized declaration form and clearance procedure will not apply to those IPR-violating import and export goods on which Customs previously has incurred administrative punishment. Moreover, this new centralized declaration form is designed for special time-sensitive entry points, such as a highway port, and is inappropriate for general expanded application. (Chinese Source: China IP News, March 26, 2008, Page 1.)

## GENERAL IPR

4. Guangdong's IP Office Develops Plan and Campaign to Implement Strategic IPR Outline: In early November 2007, the Guangdong Provincial Government promulgated the "Strategic Outline of Guangdong Province for Intellectual Property (2007-2020)." To implement the Strategic Outline, the Intellectual Property Office of Guangdong Province has developed a plan and launched a campaign, as described in the attachment. (Chinese Source: China IP News, April 9, 2008, Page 4.)

## INTERNATIONAL

5. China and Sweden Further Expand Cooperation in IPR Protection: According to Xinhua News Agency, on April 14, Premier Wen Jiabao held talks with Swedish Prime Minister Fredrik Reinfeldt in the Great Hall of the People, whereby the two sides agreed to deepen and expand cooperation on IPR protection. Premier Wen lauded Sweden as the first Western country to establish diplomatic relations with the People's Republic after its founding in 1949. He committed the State to engaging in high-level contacts and consultations to advance cooperation across broad areas, including encouraging further investment and trade. Prime Minister Reinfeldt noted

that Sweden values its excellent relations with China, desiring to further expand bilateral cooperation in trade and IPR protection among other areas. (Chinese Source: China IP News, April 19, 2008, Page 1.)

6. New Zealand and China Enter into Free Trade Agreement with IPR Provisions: New Zealand and China will enter into a Free Trade Agreement (FTA). The FTA text includes IPR, standards, and transparency components. Regarding IPR measures, in addition to affirming the TRIPS agreement and providing a methodology for consultations, this agreement also includes measures to protect genetic resources, traditional knowledge, and folklore." (Article 165.) <http://chinafta.govt.nz/1-The-agreement/2-Text-of-the-agreement/13-Chapt-12-Intellectual-property/index.php>

## EVENTS

Tuesday, May 27, 2008, 1pm – 2:00pm EST  
**USTR Reports on Annual Review of Intellectual Property Rights in China: Special 301 Report of 2008.** Please join Stanford McCoy, Assistant United States Trade Representative for IP and Innovation and Dr. Jared Ragland, Director of the Office of Intellectual Property and Innovation for an in-depth discussion of the results of this year's Special 301 report on China. The Special 301 report is an annual review of the state of IPR protection and enforcement. 78 countries were reviewed and 46 countries were designated in this year's report. This webinar is a closed-press event. The report can be found on USTR's website at [www.ustr.gov/Document\\_Library/Reports\\_Publications/2008/2008\\_Special\\_301\\_Report/Section\\_Index.html](http://www.ustr.gov/Document_Library/Reports_Publications/2008/2008_Special_301_Report/Section_Index.html).

This program is free. Only a phone line and a computer with an Internet connection are necessary. To register for the May program, please send your contact information to [ChinaIPR@mail.doc.gov](mailto:ChinaIPR@mail.doc.gov) with re: "May China IPR Webinar". A registration confirmation and dial-in/log-in instructions will be sent to you approximately one week before the program. To learn more about the webinar series, please go to [http://www.stopfakes.gov/events/china\\_webinar\\_series.asp](http://www.stopfakes.gov/events/china_webinar_series.asp)

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